

FAIR LABOR STANDARDS ACT (FLSA)

2018 Frequently Asked Questions (FAQs) and Answers

State of Utah Government Employees

Effective November 30, 2017

1. What is the Fair Labor Standards Act (FLSA)?

The FLSA contains the minimum wage provisions, Equal Pay Act, child labor restrictions, and a variety of other federal labor and employment law sections. A key provision of the Act is that employees classified as FLSA Non-Exempt must be paid time and one-half for all overtime hours worked within a designated workweek. The most common threshold for overtime is 40 hours per workweek, typically Saturday through Friday.

2. What is the difference between FLSA Exempt and FLSA Non-Exempt?

FLSA Exempt – The Fair Labor Standards Act contains dozens of exemptions under which specific categories of employers and employees are exempted from overtime requirements. The most common exemptions are the white-collar exemptions for administrative, executive, and professional employees, computer professionals, and outside sales employees. The primary distinction of exempt employees is that they are not paid overtime, no matter how many hours they work. State of Utah employees that are FLSA exempt will receive compensatory time, at straight time, for every hour worked over 80 hours in a pay period.

FLSA Non-Exempt – All FLSA non-exempt employees are entitled to overtime pay under the Fair Labor Standards Act. Employers must pay them one-and-a-half times their regular rate of pay when they work more than 40 hours in a designated workweek. State of Utah employees that are FLSA non-exempt can choose to receive overtime or to accrue compensatory time (accrued at time and one-half) for every hour worked over 40 hours in a designated workweek.

3. How do I find out my current FLSA status?

You are able to view your current FLSA status by logging into the [Employee Gateway](#). In the “My Employee Profile” section follow the “View More Details” link, and you will find your FLSA status in the “Personal Information & Assignment” section.

4. What are the federally mandated minimums for FLSA?

The current salary level threshold for executive, administrative and professional employees (EAP) to be classified as FLSA exempt is \$455 per week (\$11.38 per hour). The minimum salary level was set in 2004.

5. Does my FLSA status affect my ability to work full-time or part-time?

No, but your hours worked per designated workweek may affect your FLSA status. To be classified as FLSA exempt, the employee must earn the threshold of \$455 per week, regardless of the hourly rate earned. As stated in number one, if you work over 40 hours in a workweek you will be paid time-and-one-half for those hours if you are FLSA non-exempt.

6. Is there a maximum amount of hours I can work in a week?

The number of hours worked in a designated workweek is determined by your supervisor. Hours worked over 40 per designated workweek will be paid at time and one half for FLSA non-exempt employees.

7. Does a change in FLSA status affect how I enter my timesheet?

No. For both FLSA exempt and FLSA non-exempt employees, DHRM rule R477-8-8(1) states, "Employees shall complete and submit a state approved bi-weekly time record that accurately reflects the hours actually worked..." Prior approval must be obtained before working over 40 hours in a week for non-exempt employees, or working over 80 hours in a pay period for exempt employees.

8. Does a change in FLSA status affect my Tier I or Tier II Retirement Plans?

No. There is no direct effect to your retirement plan with any FLSA status change.

9. Will FLSA changes affect my leave accrual?

Generally no. However, employees with a direct reporting relationship to an elected official, executive director, deputy director, commissioner or board who are granted the maximum annual leave accrual under Rule 477-7-3(2)(b) may be affected if their FLSA status changes to non-exempt.

10. If my FLSA status changes to non-exempt, how do I choose my overtime election (Comp Time vs. Monetary Payment)?

If your FLSA status changes to non-exempt, you may elect to complete the Overtime Election Agreement which can be obtained [here](#) or from the Employee Gateway. Employees failing to complete the Overtime Election Agreement will default to comp time accrued at one and one half time the regular hourly rate for all hours worked over 40 in a work week. Employees wishing to receive monetary payment for overtime worked MUST complete an Overtime Election Agreement. Overtime Election Agreements may be changed at any time. Completed agreements should be emailed to ERICtransactions@utah.gov or faxed to 801-538-3616.

11. What will happen to my accrued comp time if I move to a position that is non-exempt from an exempt position?

DHRM Rule R477-8-6 states "...Any compensatory time earned by an FLSA exempt employee shall lapse upon occurrence of any one of the following events: at the end of the employee's established overtime year; upon assignment to another agency; changes FLSA status to nonexempt; or when an employee terminates, retires, or otherwise does not return to work before the end of the overtime year."

12. What will happen to my accrued comp time if I move to a position that is exempt from a non-exempt position?

DHRM Rule R477-8-5 states "...Compensatory time balances for an FLSA nonexempt employee shall be paid down to zero at the rate of pay in the old position in the same pay period that the employee is: transferred from one agency to a different agency; or promoted, reclassified, reassigned or transferred to an FLSA exempt position."